IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION No.16376 of 2004

Between:

Md. Shariff S/o Jahingir Shariff,
R/o.8-2-603/B/34/96/A, Singada Basti,

Road No.10 Banjara Hills, Hyderabad. **...PETITIONER**

AND

1. Commissioner of Prohibition & Excise, Hyderabad.
2. Superintendent of Prohibition & Excise, Hyderabad.
3. M/s. Explorers Food Services and Restaurant,
Opp.Judges Colony, Road No.10 Banjara Hills, Hyderabad.
4. Commissioner, Municipal Corporation of Hyderabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ order or direction more in the nature of Writ of Mandamus directing the respondents not to grant any licence to run the Bar & Restaurant of the 3rd respondent i.e. M/s. Explorers Food Services and Restaurant, R/o. 8-2-603/23/4, Opp: Judges Colony road No.10 Banjara Hills Hyderabad and declare that the issuance of licence is illegal, arbitrary unconstitutional and contravention of the A.P. Indian Liquor and foreign liquor Rules 1970 and Excise Act 1968.

Counsel for the Petitioner: Mr.M.T.GHORI (Not present)

Counsel for Respondent Nos.1 & 2: GP FOR PROHIBITION &

EXCISE

Counsel for Respondent No.3 : None appeared.

Counsel for Respondent No.4 : Mrs. G.JYOTHI KIRAN.

The Court at the admission stage made the following:

ORAL ORDER: (per the Hon'ble the Chief Justice)

None for the petitioner.

The writ petition was adjourned from time to time in order to enable the learned counsel for the petitioner to satisfy us under what provision respondent No.3 is debarred from opening the bar in the locality in question. Since the petitioner's counsel is not present, we proceed to dispose of the writ petition in his absence on merits.

Rule 27 of the A.P. Indian Liquor and Foreign Liquor Rules, 1970 stipulates that licences involving consumption of liquor cannot be granted within 100 meters from educational institution recognized by the Government, places of public worship such as temples registered by the Endowments Department, mosques registered with the Wakf Board, churches and hospitals, subject to further condition that in the limits of municipal corporations, distance restriction shall be 50 meters.

The petitioner's grievance was that Madina Masjid is in close proximity to the place where third respondent had been permitted to sell liquor. Madina Masjid, as per the notification published on 13th April 2003 in Andhra Pradesh Gazette, is a wakf property and utilized as such under the provisions of the Wakf Act. It was registered on 4-1-2000 under Section 36 of the Wakf Act, 1995 and is mentioned in column 5 and entered in the Book of Endowments at page 148, Sl.No.15, of A.P. State Wakf Board.

In view of this position, we direct first respondent to examine the question as regards licence issued to third respondent and in case it violates any provisions of the law, to take appropriate remedial steps in the matter within a period of two months from the date of receipt of a copy of this order.

The writ petition stands disposed of accordingly.

_____

(DEVINDER GUPTA, C.J.)

24th November 2004.

_____

(M. NARAYANA REDDY, J.)

ARS

To

1. The Commissioner of Prohibition & Excise, Hyderabad.
2. The Superintendent of Prohibition & Excise, Hyderabad.
3. The Commissioner, Municipal Corporation of Hyderabad, Hyderabad.

4. 2CCs to the G.P. for Prohibition and Excise, High Court Buildings, Hyderabad (OUT).

5. 2CD copies.